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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
09/844,564	04/27/2001	Ming Yu Chang	01-03-1627	1790		
23388	7590	04/28/2009	EXAMINER			
TROJAN LAW OFFICES 9250 WILSHIRE BLVD SUITE 325 BEVERLY HILLS, CA 90212				SUERETH, SARAH ELIZABETH		
ART UNIT		PAPER NUMBER				
3749						
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04/28/2009		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/844,564	CHANG, MING YU
	<b>Examiner</b>	<b>Art Unit</b>
	Sarah Suereth	3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 4/25/08.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2,3,6,8,9,13 and 14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 2, 3, 6, 8, 9, 13, and 14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

***Response to Amendment***

1. Receipt of applicant's amendment filed on 04/25/08 is acknowledged.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 2, 3, 6, 8, 9, 13 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **U.S. Patent No. 5,769,625 to Sher** ("Sher") in view of **U.S. Patent No. 5,655,902 to Doucet** ("Doucet").

5. Sher discloses a disposable lighter, comprising:

a lighter body (601) for receiving a liquefied fuel therein;  
a mounting frame (614) which is sealedly affixed on top of said lighter body (Figure 1) comprising a first (614b) and a second (614b) supporting wall upwardly extended from two sides of said mounting frame (614),  
a gas nozzle (608), a flint spring (617), a gas lever (616), a gas valve (607);  
an ignition device comprising a flint (618) and a striking wheel (720), said striking wheel having a circumferential coarse striking surface (722) being positioned right above and in contact with said flint and rotatably mounting between said first and second supporting walls (720A is rotatable mounting), two discs (720) with a glossy surface (col. 4 line 45) and a U-shaped wind shield (621) with the claimed structure (Figure 1).

6. Although Sher Figure 1 shows the wind shield having curved upper edges, it is not completely clear if the radius of the curve equals one fourth of the circumference of the striker wheel.

7. However, this dimension is not critical to the practice of the invention, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sher curved side to have a radius equal to one fourth of the circumference of the striker wheel as a matter of obvious design choice.

8. Sher, as discussed above, discloses the invention as claimed with the exception of showing the discs having a diameter larger than the striker wheel (Figure 5).

9. Doucet discloses a similar lighter, having a striker wheel (20) surrounded by two discs (18) in the same manner as Sher and applicant. Doucet teaches placing a sleeve

(60) as part of the striker wheel to prevent children from activating the lighter. As seen in Figure 4, the sleeve surrounding the striker wheel has the same diameter as the outer discs.

10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sher striker wheel to include the sleeve of Doucet, in order to prevent children from operating the lighter (col. 1, lines 11-13).

11. As discussed above, the Sher in view of Doucet does not teach making the striker wheel larger than the supporting discs.

12. Regarding claims 3 and 14, because Sher in view of Doucet suggests making the discs the same size as the striker wheel, choosing to dimension the discs slightly smaller than the striker wheel is a matter of obvious design choice.

### ***Reissue Applications***

13. Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5,897,307 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571)272-9061. The examiner can normally be reached on Mondays & Tuesdays 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister, can be reached (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah Suereth/

Examiner, Art Unit 3749

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749